IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 492 of 2000

in

SPECIAL CIVIL APPLICATIONNo 2145 of 1993

Hon'ble MR.JUSTICE J.N.BHATT

and

Hon'ble MR.JUSTICE Y.B.BHATT

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

ANILKUMAR UMEDBHAI AMIN

Versus

STATE OF GUJARAT

Appearance:

MR HARIN P RAVAL for Appellant

MS KATHA GAJJAR, AGP for Respondents

CORAM : MR.JUSTICE J.N.BHATT

and

MR.JUSTICE Y.B.BHATT

Date of decision: 25/01/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE J.N.BHATT)

1. This Letters Patent Appeal is directed against the judgement of the learned Single Judge in Special Civil Application No.2145 of 1993, dated 3.4.2000, whereby the writ petition came to be dismissed, by invoking the provisions of Clause 15 of the Letters Patent.

2. The appellant-original petitioner by filing writ petition inter alia contended that he is the trustee of a Trust running in the name of Manekaba Amin College of Fine Arts at Patan and he had applied for starting Primary Teachers Certificate Course College at Patan from the academic year 1987-88, which came to be rejected by the respondent without giving an opportunity of hearing and on an impermissible ground. Thus, the challenge is that the refusal to grant recognition to start the P.T.C. College is unreasonable and arbitrary.

3. The appellant had applied earlier and permission was not granted and some other petitions were filed. Therefore a summary of the history may be expedient.

4. The first application for permission was rejected on the ground that it was not within time as per rules for the academic year 1987-88 since it was received by the office beyond December 1986. Being aggrieved by the said order Special Civil Application No.1488/87 was filed. In the said petition this Court directed to consider the application on merits since it was rejected on the ground of delay in submitting the application. Therefore the respondent authority, after obtaining opinions and report of District Education Officers and considering the fact again rejected the application. Again there was a writ petition and direction was given to afford an opportunity of hearing to the original petitioner. The appellant-original petitioner was heard and again the application was rejected. Thereafter again there was a writ petition and there was further direction that the appellant-original petitioner should be given further hearing. Again the authority after giving a further hearing rejected the application. Being aggrieved by the rejection of such application dated 24.12.1992 the appellant filed the aforesaid writ petition, which, after consideration and hearing, came to be rejected.

5. After having given anxious thoughts to the submissions raised before us, and consideration to the facts emerging from the record of the present appeal, we find no substance in this appeal. The grounds on which the last order dated 30th December 1992 of the respondent Director of Primary Education are founded upon and the reasons stated therein go to show that the material requirements for the consideration of the application of the appellant were not fulfilled. There is no allegation of malafide or bias or of any extraneous consideration. Nothing has been shown that the decision impugned and approved of the respondent authority and affirmed by the learned Single Judge is anyway affected by extraneous consideration. The respondent authority has exercised its power in rejecting the application of the appellant which appears to be only in his individual capacity and such decision could not be shown to be anyway arbitrary, unreasonable or unjust warranting exercise of extraordinary, plenary, prerogative and discretionary powers under Article 226 of the Constitution of India.

6. It was also pointed out by the learned Assistant Government Pleader Ms. Katha Gajjar that in view of the provisions of National Council for Teachers' Education Act,1993 (NCTEA), the permission can be now accorded or granted by the NCTEA upon the recommendation of the State authority. The Act is of 1993, whereas the impugned decision of the authority is dated 24th December 1992. Certain norms are provided for granting permission of P.T.C. college. It is, therefore, necessary for the person seeking permission to satisfy and answer the eligibility criteria and the recommendation of the State.

7. In our opinion, the impugned decision of the learned Single Judge is in relation to the impugned decision of respondent authority dated 24.12.1992 rejecting the application of the appellant for starting P.T.C. college for the academic year 1987-88. On merits as well as upon the changed events subsequent to the application of the appellant, this appeal is required to be dismissed being meritless. The appeal is accordingly dismissed with costs.

****

ar